IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 18926 OF 2007

Dated : September 6, 2007

Between:

M.Rasheed Jameel

Petitioner

AND

The General Manager,
South Central Railway,
Rail Nilayam, III Floor,
Secunderabad and others

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 18926 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of certiorari to call for the records

relating to the order, dated 22.08.2007 passed in O.A. No. 377 of 2007 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, and to quash the same, the petitioner filed this writ petition.

The petitioner herein filed the above O.A. before the Tribunal assailing the order dated 15.5.2007 by which the petitioner was transferred from Guntalkal to Nandalur Railway Station, as illegal and arbitrary.

Few facts, that are necessary for disposal of this writ petition, are that the petitioner was appointed as Health Inspector Grade – III in the year 1990 and posted at Purna and thereafter transferred to various places. It is submitted that his promotion suffered a set back due to frequent transfers. The petitioner, being a native of Hyderabad, requested for transfer to Hyderabad, which was not acceded to. When the petitioner was transferred from Raichur to Guntakal, he filed OA No. 443 of 2005, which was disposed of by the Tribunal with a liberty to the petitioner to submit a representation to the respondents seeking transfer to Hyderabad and also directed the respondent to consider the same, in the event of petitioner filing such representation. It is further stated that though the petitioner made a representation, dated 1.8.10025 to the second respondent, it is not considered so far and instead the petitioner was transferred to Nandalur from Guntakal to accommodate somebody. It is also averred

that the petitioner was again targeted and transferred from Guntakal to Nandalur, to appease another employee. Feeling aggrieved of the same, the petitioner approached Tribunal and filed OA No. 56 of 2007, which was disposed of by the Tribunal directing the respondents not to give effect to the order dated 23.1.2007 till 30.4.2007 and directed the respondents to dispose of the representation of the petitioner. Pursuant to the said order, the second respondent gave personal hearing to the petitioner on 13.4.2007, before whom the petitioner has represented that he is an heart patient and had undergone eye operation and that he was advised by the doctors not to work in Railway Stations. It is the petitioner's case that without considering his representation, the second respondent transferred him to Vijayawada Railway Station, by order dated 15.5.2007, which was impugned before the Tribunal, in the above O.A.

The Tribunal, on exhaustive consideration of the matter, observed that the pursuant to the transfer of the petitioner from Guntakal to Nandalur, he submitted a representation, which was attended to by the respondents and after hearing the petitioner, he was posted to Vijayawada, where better medical facilities are available. The Tribunal further observed that the post in which the petitioner was working at Guntakal was upgraded to Health Inspector, Grade I and as a result of which the petitioner who was holding the post of Health Inspector,

Grade III, had to be shifted. Observing so, the Tribunal held that merely because there are other Health Inspectors working at Guntakal, since prior to the posting of the petitioner at Guntakal, it cannot direct the competent authority to transfer the petitioner to another station and, consequently, dismissed the O.A. which is also impugned in this writ petition.

Aggrieved thereby, the present writ petition is filed mainly contending that since one Dr. T.Saichand, who had personal animosity against the petitioner, who is now promoted as Chief Medical Superintendent, Vijayawada, under whom the petitioner is required to work and, therefore, it is not conducive for him to work there. It is further contended that none of the grounds for transfer i.e. pursuant to promotion, at one's request or administrative requirement, exists.

To assail an order transferring an employee, one has to prove whether the order was afflicted with mala fides. Now let us see whether the impugned order is beset with any mala fides or it is just an incidence of service and made on administrative grounds.

As observed by the Tribunal, the post in which the petitioner was working at Guntakal was upgraded as Health Inspector, Grade I, and therefore, the petitioner, who was working as Health Inspector, Grade III, had to be

shifted. The allegation that one Dr. T.Saichand, had personal animosity against the petitioner and the petitioner is required to work under him, cannot be given much weight. It is also observed by the Tribunal that a competent authority has transferred the petitioner. Keeping in view the representation of the petitioner that he is a heart patient, the petitioner was rightly transferred to Vijayawada, where better medical facilities are available than at Guntakal. Thus the petitioner failed to make out any case to demonstrate either mala fides against the respondents or that his representation was not considered and he was posted at a place where there are no medical facilities. In such view of the matter, we are not inclined to interfere with the order impugned.

Consequently, we do not see any justifiable ground to interfere with the impugned order. The Writ Petition fails and is accordingly dismissed at the stage of admission. No order as to cost.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

September 6, 2007
MAS